

REMARKS

Claims 2-12 and 14-23 are now pending in the present application. Claim 1 has been cancelled without prejudice. Claims 2-12 have been amended and Claims 14-23 have been added. Claim 13 was previously cancelled without prejudice. Consideration of the pending claims is respectfully requested.

The present Response is intended to be fully responsive to all points of rejection previously raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of this application is respectfully requested. No new matter has been added by any of the amendments. Applicant respectfully requests reconsideration and withdrawal of the Examiner's rejections in view of the foregoing amendments and following remarks.

The Examiner previously rejected claims 1-11 under 35 U.S.C. §103(a), as being unpatentable over Keller (U.S. Patent No. 4,869,911) in view of Weinstein et al. (U.S. Patent No. 5,639,485). Applicants have rewritten all claims so as to define the invention more particularly and distinctly, in order to overcome the technical rejections and define the invention patentably over the prior art cited by the Examiner.

Claims 1-11

In the Office Action dated May 25, 2006, the Examiner rejected claims 1-11 under 35 U.S.C. §103(a), as being unpatentable over Keller (U.S. Patent No. 4,869,911) in view of Weinstein et al. (U.S. Patent No. 5,639,485). The Examiner has found that:

Keller ['911] teaches a method comprising the steps of plasticizing a farinaceous food mixture containing 5-17% plasticizer (column 2, line 22) including monosaccharides, polysaccharides, and alcohols (column 3, lines 12-51), a moisture content of 9-17% (column 2, line 25), directing the flow to a central passage of a co-rotating twin screw extruder (column 4, lines 8-17), extruding the flow through a nozzle (column 4, line 51), the product having a moisture content of 4-8% and water activity level of 0.30-0.45 (column 2, line 35), the plasticizer including 4-6% corn syrup solids, 0.5-2.0% sucrose, 3-6% polydextrose, and 0.5-2.5% glycerol (column 3, lines 53-59), 6-15% plasticizer (column 4, line 1), corn meal (column 3, line 3), and a reduction in cross-sectional area of about 9.2:1 (column 4, lines 51-63). Keller ['911] does not recite imparting a cleft and injecting a fluid additive, a die insert with a capillary channel and peripheral reservoir manifold, and a fluid supply port and fluid additive source. Weinstein et al. ['485] teach a method of extruding complex patterns by using a die insert to impart a cleft (Figure 2, #20), injecting

a fluid additive into the cleft (Figure 4, #48), capillary channels (Figure 3, #52, 54, 56), a peripheral reservoir (Figure 4, #58), and a fluid supply port and source (Figure 2, #18). It would have been obvious to one of ordinary skill in the art to incorporate the fluid injection means of Weinstein et al. ['485] into the invention of Keller ['911] since both are directed to methods of extruding farinaceous materials, since Keller ['911] already included the concept of co-extrusion (column 5, lines 17-35), and since the fluid injection means of Weinstein et al. ['485] provided an effective means for providing multi-colored food product with complex patterns which were valued by consumers (column 1, lines 5-34).

The Examiner stated further:

Applicant's arguments filed 2/28/06 have been fully considered but they are not persuasive. In response to applicant's arguments that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the exclusion of interstitial gaps are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claim. (citation omitted)

Applicant argues that Weinstein et al. ['485] did not recite the cross-sectional area of claims 8-9. However, the main reference of Keller ['911] clearly taught the claimed limitation (column 4, lines 56-63).

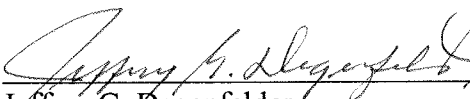
Claim 1 has been cancelled without prejudice. New Claim 14 is an amended version of Claim 1 in accordance with Examiner's most recent remarks. Claims 2-11 have been amended to depend from Claim 14. Claims 2-11 and 14 as now amended are non-obviousness despite the teachings of Keller '911 in view of Weinstein et al. '485. The prior art cited by Examiner does not, either alone or in combination, teach or disclose every element of Applicants' invention. Applicants' method of injection is fundamentally different from that disclosed in Weinstein et al. '485. The subject method of injection utilizes a co-injection die insert having at least one capillary channel, which is fluidly connected to the reservoir manifold, to inject a continuous band of fluid additive between each of the plurality of adjacent flowing extrudate flows. Each capillary channel is supplied with fluid additive via a single channel port, which is in fluid communication with the capillary channel and the reservoir manifold. (see specification, page 14, line 17 – page 15, line 14) Conversely, Weinstein et al. '485 requires *multiple* “evenly spaced food color injection ports 48” in addition to the capillary channel to inject an additive into “interstitial gaps” imparted into the dough. (see Weinstein et al. '485: column 5, lines 33-41) In addition, the method of the present invention merely divides the extrudate flow into a plurality of adjacent flows and then injects a continuous band between each of the adjacent extrudate flows. (see specification, page 15, lines 2-14) Thus, the injection method of the present invention need not rely upon an interstitial gap to distribute the food color additive.

CONCLUSION

It is respectfully urged that the subject application is patentable and the claims are now in condition for allowance. Applicant requests reconsideration of the application and allowance of the claims. If there are any outstanding issues that the Examiner feels may be resolved by way of a telephone conference, the Examiner is cordially invited to contact Jeffrey G. Degenfelder at 972.367.2001.

The Commissioner is hereby authorized to charge any additional payments that may be due for additional claims to Deposit Account 50-0392.

Respectfully submitted,

By: 

Jeffrey G. Degenfelder
Registration No. 44,647
Attorney for Applicants

Date: September 22, 2006
CARSTENS & CAHOON, LLP
P.O. Box 802334
Dallas, TX 75380
(972) 367-2001 Telephone
(972) 367-2002 Facsimile